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DECISION



THE COMPTROLLER OF THE UNITED STATES
WASHINGTON, D. C. 20548

*to Agency on
2/27/78*

FILE: B-188710

DATE: March 23, 1978

MATTER OF: Handicapped Employees - Compensation
of Attendants During Training

DIGEST: Compensation of attendants for handicapped employees who attend Government training programs may not be paid by agencies. Although 5 U.S.C. 4109 allows agencies to incur necessary costs of services which are directly related to training, services of attendants are personal in nature, are normally provided by employees' families, and are not incident to presentation of training curricula. In addition, neither statutory language or legislative history of 5 U.S.C. 7153 (1976) and 29 U.S.C. 791 (Supp. V, 1975), which provide for non-discrimination and affirmative action in Federal employment, indicate an intent to provide agencies with authorization to incur such special expenses which we consider personal in nature.

This decision is in response to a letter from Alan K. Campbell, Chairman of the U.S. Civil Service Commission requesting a determination as to whether agencies may incur the expenses of compensating attendants for handicapped employees incident to official training provided outside the locality of the regular duty station. The attendants would be paid to provide the handicapped employees with required personal care, such as dressing, bathing, assisting in getting in or out of bed, and other services which are normally provided by the employee's family at his regular duty station. The Chairman cites the Government's responsibilities under the Government Employee's Training Act, 5 U.S.C. 4101-4118 (1976), under 5 U.S.C. 7153 (1976), and under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 (Supp. V, 1975), and asks whether funds available for training employees pursuant to 5 U.S.C. 4109 are also available to pay such expenses.

Under 5 U.S.C. 4109, agency appropriations are available to pay or reimburse an employee for all or part of the necessary expenses of training, including the necessary costs of " * * * services or facilities directly related to the training of the employee." The Chairman notes that, in our decision B-188710 of

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September 23, 1977, we determined that special expenses for taped or brailled materials and interpreters for the deaf and readers for the blind were properly allowable expenses under 5 U.S.C. 4109 incident to the training of handicapped employees. In that decision, we held that an agency, having authority under the Government Employee's Training Act to use its appropriations for necessary expenses directly related to the training of employees may pay expenses necessary to make training curricula accessible to otherwise handicapped employees. The Chairman urges us to concur in his view that the special expenses of compensation for an attendant are similarly authorized.

The difficulty is that our decision of September 23, 1977, was limited to those expenses directly related to training. Thus, the services of interpreters or readers of training curricula serve to make the training materials as available to any handicapped employee as they are to other employees. However, the services of an attendant will benefit only the individual employee who receives such assistance. Also, the types of services considered in our decision of September 23, 1977, directly arise out of the presentation of training curricula, whereas an attendant would provide those services which are normally provided by the employee's family at his regular duty station. Accordingly, we find that the services of an attendant for handicapped employees who are attending training are personal in nature and are not directly related to training. Our decision in B-188710, September 23, 1977, does not apply to the expenses of attendants for handicapped employees and 5 U.S.C. 4109 does not provide any authority for agencies to incur the costs of services which are not directly related to training.

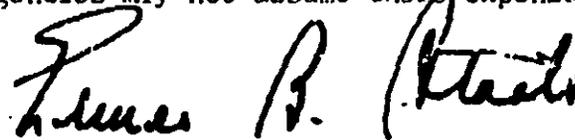
The Chairman has also cited two other statutory provisions; 5 U.S.C. 7153 (1976) and 29 U.S.C. 791 (Supp. V, 1975), as a basis for allowing agencies to pay the expenses of attendants. Section 7153 of title 5, United States Code, provides for the President to prescribe rules prohibiting, as nearly as conditions of good administration warrant, discrimination because of physical handicap in the competitive service and 29 U.S.C. 791 (Supp. V, 1975), requires executive branch agencies to submit to the Commission an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals. However, there is nothing in the statutory language or the legislative

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history of either provision to indicate that they were intended to provide Government agencies with the authority to incur the special expenses of attendants for handicapped employees which we consider as personal in nature.

In decision B-189010, August 15, 1977, we held that the Architectural and Transportation Barriers Compliance Board could pay the expenses of hiring an attendant for a handicapped member of the National Advisory Committee on an Accessible Environment incident to his attending periodic official meetings. However, our determination was based on the unique statutory authority of the Compliance Board set forth at 29 U.S.C. 792 (Supp. V, 1975) and was not based on 5 U.S.C. 7153 (1976) or 29 U.S.C. 791 (Supp. V, 1975).

Since 31 U.S.C. 628 (1970) provides that the expenditure of appropriated funds is limited to the purposes for which appropriated and since none of the pertinent statutory provisions (5 U.S.C. 4109, 7153, and 29 U.S.C. 791) confers authority for agencies to pay the expenses of compensating attendants for handicapped employees, we conclude that agencies may not assume those expenses.


Comptroller General
of the United States